

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

KELLI JO CARTER-BENSON and
EDGAR CARTER,

Plaintiffs,

vs.

CITY OF GREAT FALLS; ADAM
OLSON; MICHAEL DRAPER;
AARON McADAM; WILLIAM
BROOKS; and JOHN and JANE
DOES 6-10,

Defendants.

CV 18-113-GF-JTJ

ORDER

The Court conducted a hearing on all pending motions on April 1, 2020.

For the reasons discussed in open court,

IT IS HEREBY ORDERED:

1. Defendants' Motion in Limine (Doc. 77) is GRANTED in part, and
TAKEN UNDER ADVISEMENT in part, as follows:

- a. The motion in limine is GRANTED with respect to those matters identified in the motion as topics 2 through 7.
- b. The portion of the motion in limine that relates to Plaintiffs' medical records is TAKEN UNDER ADVISEMENT.

2. Defendant City of Great Falls' Motion for Summary Judgment

(Doc. 69) is GRANTED in part, and TAKEN UNDER ADVISEMENT in part, as follows:

- a. The motion is GRANTED with respect to all § 1983 claims against the City of Great Falls.
- b. The motion is GRANTED with respect to all Eighth Amendment claims against the City of Great Falls.
- c. The portion of the motion that seeks the dismissal of the negligence claims against the City of Great Falls based on an unlawful *Terry* stop is GRANTED.
- d. The portion of the motion that seeks the dismissal of all other negligence claims against the City of Great Falls is TAKEN UNDER ADVISEMENT.
- e. The portion of the motion that seeks the dismissal of the loss of consortium claim against the City of Great Falls is TAKEN UNDER ADVISEMENT.

3. The individual Defendants' Motion for Summary Judgment (Doc. 71)

is GRANTED in part, and TAKEN UNDER ADVISEMENT in part, as follows:

- a. The motion is GRANTED with respect to all claims against Defendant William Brooks.¹
- b. The motion is GRANTED with respect to all § 1983 claims against the individual Defendants in their official capacities.

¹ The caption on all future documents should be amended to reflect that William Brooks is no longer a Defendant in this case.

- c. The motion is GRANTED with respect to all Eighth Amendment claims against the individual Defendants.
- d. The motion is GRANTED with respect to all state law claims against the individual Defendants.
- e. The motion is GRANTED with respect to the § 1983 claims alleging that the individual Defendants lacked reasonable suspicion to conduct the *Terry* stop.
- f. The portion of the motion that seeks the dismissal of the § 1983 claims alleging an unlawful arrest and excessive use of force is TAKEN UNDER ADVISEMENT.

DATED this 2nd day of April, 2020.



John Johnston
United States Magistrate Judge